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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210138

DATE: February 24, 1983

MATTER OF: Parmatic Filter Corporation

DIGEST:

1. GAO will not review contracting officer's nonresponsibility determination where SBA refuses to issue certificate of competency for reason that protester failed to submit required documentation with application, because SBA's denial of certificate under these circumstances is, in effect, affirmation of contracting officer's determination.
2. Contracting officer has discretion not to conduct a preaward survey, and in the absence of a showing of fraud, GAO will not review a decision to this effect.
3. Whether an awardee is satisfactorily performing its contract is a matter of contract administration not reviewed by GAO under its Bid Protest Procedures.

Parmatic Filter Corporation protests the contracting officer's determination that the firm was nonresponsive and therefore ineligible to receive award under invitation for bids No. DAAE07-82-B-5857, issued by the Department of the Army. Among eight bidders, Parmatic was in line for award after the apparent low bidder was determined to be nonresponsive. The protester contends that the preaward survey, upon which the determination of nonresponsibility was based, was incorrect. We dismiss the protest.

Since Parmatic is a small business concern, the Army referred the contracting officer's negative responsibility determination to the Small Business Administration (SBA) as required by 15 U.S.C. § 637(b)(7) (Supp. IV 1980), for consideration under SBA's Certificate of Competency (COC) procedures. See 13 C.F.R. § 125.5 (1982). The SBA closed its file, case COC-02-5068, without issuance of a COC, because Parmatic failed to submit an SBA Form 355 along with its application.

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Documents supplied to us by the Army show that on October 19, 1982, the contracting office determined Parmatic to be nonresponsive based on a negative preaward survey. SBA was notified of this action the following day. On October 28, upon being informed by Parmatic that it wished to apply for a COC, SBA established a deadline of November 4 for receipt of Parmatic's application and November 19 as the date by which SBA would inform the contracting officer of its decision. At Parmatic's request, SBA and the contracting officer subsequently agreed to extend until November 12 the deadline for filing the application. When a complete application had not been received by November 19, SBA closed its file.

It is the responsibility of the small business firm to file a complete and acceptable COC application with SBA in order to avail itself of the possible protection provided by statute and regulation against unreasonable determinations by contracting officers as to its responsibility. Greenbrier Industries, Inc., B-191380, April 24, 1978, 78-1 CPD 315. Since an award determination is suspended pending SBA's consideration of a COC application, SBA must act expeditiously in processing these applications. ALS Electronics Corporation, B-179033, February 22, 1974, 74-1 CPD 92. Parmatic failed to file a complete application within the time limits set by SBA.

The practical effect of failing to submit required documentation within the established time is the same as if the firm had failed to file any application, Hazel and Mabel's Maid and Cleaning Service, B-207520, July 1, 1982, 82-2 CPD 6, and failure to file an application is analogous to SBA's refusal to issue a COC. Arsco, Inc., B-187050, September 1, 1976, 76-2 CPD 214. Our Office will not question a contracting officer's negative responsibility determination where it has been affirmed by SBA's denial of a COC. Vernitron Corporation, B-201832.4, September 25, 1981, 81-2 CPD 250.

In a supplement to its protest, Parmatic states that it has "reason to believe" that no preaward survey was made of the awardee, GKS, and that GKS is having difficulty completing the contract using an "approved" component and is seeking an acceptable alternate. Neither allegation provides a basis for disturbing the award to GKS.

A preaward survey is an evaluation by a contract administration office of a prospective contractor's capacity to perform under the terms of a proposed contract. Defense Acquisition Regulation § 1-904.5 (DPC 76-13, November 18, 1977). Such an evaluation is used to determine a prospective contractor's responsibility. However, there is no requirement that a preaward survey be conducted in all cases. Klein-Sieb Advertising & Public Relations, Inc., B-194553.2, March 23, 1981, 81-1 CPD 214. It is within the contracting officer's discretion not to conduct a preaward survey, and we will not review a decision to this effect in the absence of a showing of fraud on the part of procuring officials or an allegation of failure to apply definitive responsibility criteria, since this decision is part of an affirmative determination of responsibility. Decision Sciences Corporation, B-205582, January 19, 1982, 82-1 CPD 45. Since the protester has neither alleged nor shown that the lack of a preaward survey--if, in fact, there was none--falls within one of these exceptions, we will not review it. Keco Industries, Inc., B-207114, August 23, 1982, 82-2 CPD 165.

Whether GKS is satisfactorily performing its contract is a matter of contract administration which we do not consider under our Bid Protest Procedures. Hybrid Abstracts, B-207083, May 24, 1982, 82-1 CPD 488.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel